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101ST CONGRESS
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REPORT
101-313

VETERANS EDUCATION PROGRAMS AMENDMENTS OF 1989

OCTOBER 26.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 3390]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3390) to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes, having considered the same, reports favorably thereon with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 5, line 12, strike out "35" and insert in lieu thereof "34".

Page 6, line 7, strike out "conduct" and insert in lieu thereof "attendance, conduct,".

Page 7, line 4, strike out "conduct" and insert in lieu thereof "attendance, conduct,".

Page 7, after line 11, insert the following:

SEC. 5. UNIFORMITY OF ATTENDANCE REQUIREMENT.

(a) IN GENERAL.—Section 1780(a) of title 38, United States Code, is amended—

(1) in clause (1) of the second sentence, by striking out "enrolled in a course" through "1788(a)(7) of this title,";

(2) by striking out clause (2) of the second sentence;

(3) by redesignating clauses (3), (4), and (5) of the second sentence as clauses (2), (3), and (4), respectively;

(4) in the third sentence, by striking out "set forth in clause (1) or (2)" and inserting in lieu thereof "set forth in clause (1)";

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(5) in subclause (A) of the third sentence, by striking out ", and such periods" through "subsection"; and

(6) in subclauses (B) and (C) of the third sentence by striking out ", but such periods" through "subsection".

(b) CONFORMING AMENDMENTS.—Section 1674 and section 1724 of such title are each amended by striking out "conduct" in the first sentence and inserting in lieu thereof "attendance, conduct,".

SEC. 6. MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 1788(a) of title 38, United States Code, is amended by inserting after "three hours" in clause (C) of the second sentence the following: "(or three 50-minute periods)".

(b) CONFORMING AMENDMENT.—Section 1788(c) of such title is amended by inserting after "three hours" in the second sentence the following: "(or three 50-minute periods)".

SEC. 7. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS.

Section 1788(e) of title 38, United States Code, is amended to read as follows:

"(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

Page 7, line 12, strike out "5" and insert in lieu thereof "8".

Page 9, line 2, insert "1723(e)," after "Sections".

INTRODUCTION

Section 320 of Public Law 99-576, the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, established the Commission on Veterans' Education Policy. The Commission was charged with reporting its findings, views, and recommendations regarding the administration of Department of Veterans Af-

fairs (DVA) educational assistance programs to the House and Senate Committees on Veterans Affairs and the Secretary of Veterans Affairs.

On August 2, 1989, the Subcommittee on Education, Training and Employment held a hearing to review the Commission recommendations. Witnesses at this hearing included: the Honorable Janet D. Steiger, Chairman, Commission to Assess Veterans' Education Policy, accompanied by Ms. Babette Polzer, Executive Director of the Commission; Mr. Grady Horton, Deputy Chief Benefits Director, DVA, accompanied by Mrs. Mary Leyland, Deputy Director, Vocational Rehabilitation and Education Service, DVA; Ms. Lynn Denzin, President, National Association of Veterans Program Administrators; Mr. Samuel J. Walsh, Deputy Director, National Legislative Commission, The American Legion, accompanied by Mr. Richard S. Christian, Deputy Director, National Veterans Affairs and Rehabilitation Commission, The American Legion; and Mr. John Bollinger, Associate Legislative Director, Paralyzed Veterans of America.

On October 2, 1989, H.R. 3390, a bill to amend title 38, United States Code, with respect to certain veterans' education programs, was introduced by the Honorable Timothy J. Penny, Chairman of the Subcommittee on Education, Training and Employment, and the Honorable Christopher Smith, Ranking Minority Member of the Subcommittee. The provisions of this bill were largely based on the testimony received at the August 2nd hearing. Other cosponsors include Committee members G. V. (Sonny) Montgomery, Don Edwards, Douglas Applegate, Lane Evans, Harley Staggers, Jr., J. Roy Rowland, James Florio, Charles Stenholm, Claude Harris, Joseph Kennedy II, Elizabeth Patterson, Jim Jontz, L.F. Payne, Bruce Morrison, George Sangmeister, Mike Parker, Ben Jones, Jill Long, Bob Stump, John Paul Hammerschmidt, Chalmers Wylie, Bob McEwen, Dan Burton, Michael Bilirakis, Thomas Ridge, John Rowland, Robert Smith, Craig James, Cliff Stearns, and Bill Paxon. Additional cosponsors include Marvin Leath, W. G. (Bill) Hefner, Ed Jenkins, Bill Richardson, Glen Browder, Nick Joe Rahall II, Tim Johnson, and Ben Blaz.

The Subcommittee met on October 12, 1989, and voted unanimously to recommend H.R. 3390, as amended, to the Full Committee. On October 18, 1989, the Full Committee approved H.R. 3390, as amended, and ordered the bill reported to the House.

Background

As noted in the introduction, the Commission on Veterans' Education Policy was established by section 320 of Public Law 99-576 and was charged with reporting its findings, views, and recommendations regarding the administration of DVA educational assistance programs. The Commission was specifically charged with addressing the following issues:

The need for distinctions between certificate-granting courses and degree-granting courses;

The measurement of courses for the purposes of payment of educational assistance benefits;

The vocational value of courses offered through home study;

The role of innovative and nontraditional programs of education and the manner in which such programs should be treated for purposes of educational assistance benefits by the DVA, including courses that result in the achievement of continuing education units; and

Other matters relating to the administration of DVA educational assistance programs as the Commission considered appropriate or necessary or as suggested by the Secretary or the House and Senate Committees on Veterans Affairs.

Under the provisions of Public Law 99–586, the Commission was required to submit its first report on its findings and recommendations 18 months after the date on which at least eight of the Commission's 11 members were appointed. Six months following the submission of the Commission's first report, the Secretary was required to submit an interim report to the Committees. This report was to contain the Secretary's views on the desirability, feasibility, and cost of implementing the Commission's recommendations as well as any other proposals the Secretary considered appropriate in light of the Commission's report. The Commission was then required to submit a final report to the Committees and the Secretary 90 days following submission of the Secretary's comments responding to that report. Not later than two years following submission of the Commission's final report, the Secretary is to submit a final report to the Committees describing actions taken with respect to the recommendations of the Commission and any further recommendations the Secretary considers appropriate.

In addition to the Commission's first meeting on April 29, 1987, six open meetings were held and several field activities conducted, including three field trips to DVA regional offices and participation in several national meetings of groups associated with veterans' education. Views and comments were sought from DVA field personnel, educational institutions, State approving agency personnel, and others who deal with or are affected by DVA educational assistance programs.

The implementation of the newest veterans' educational assistance program in 1985, the Montgomery GI Bill (Public Law 98–525), and the resulting influx of a new group of veteran students presented the Committee with an excellent opportunity to review and reevaluate existing program requirements, procedures and practices.

MAJOR PROVISIONS OF H.R. 3390, AS AMENDED

The reported bill would:

1. Require the Department of Veterans Affairs to prepare and distribute, on or after July 1, 1990, a detailed document describing the benefits, procedures, requirements, and other pertinent information regarding veterans' educational assistance programs. The document would be sent to individuals when they first apply for DVA education benefits, to education and training institutions, and, upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel.

2. Include, beginning January 1, 1990, veterans training under the vocational rehabilitation program for service-connected disabled veterans (Chapter 31, title 38, United States Code) in the annual tally of individuals receiving DVA education benefits for purposes of determining the "reporting fee" to be paid to an educational institution.

3. Provide, effective January 1, 1990, that veterans and eligible persons may work up to a maximum of 20 hours per week when participating in the DVA's work-study program.

4. Permit all veterans and eligible persons attending school on at least a half-time basis to participate in the DVA work-study program.

5. Extend eligibility for the DVA work-study program to survivors and dependents receiving training under Chapter 35, title 38, United States Code.

6. Permit the DVA to accept a school's certification for renewal of an individual's educational benefits following termination for unsatisfactory progress or conduct.

7. Provide that the measurement of a combination clock/credit hour program would permit the conversion of credit hours pursued to the equivalent clock hours.

8. Make the attendance requirement for vocational education courses consistent with that of degree programs.

9. Require the DVA to consider three 50-minute periods of workshop training as the equivalent of one standard class session.

Discussion of the Bill

Information to assist veterans receiving education benefits

Section 1 of the Committee bill would require the Department of Veterans Affairs to prepare, and update periodically, a document containing a detailed description of the benefits, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department. The Secretary is to distribute this document, on or after July 1, 1990, to all individuals first applying for DVA education benefits and at least annually in the years thereafter in which these individuals receive DVA benefits. Additionally, the document is to be provided to education and training-institution officials annually and, upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel. The Secretary is required to use funds appropriated to the readjustment benefits account of DVA to carry out this section.

In its report dated August 29, 1988 [House Committee Print No. 17, 100th Congress], the Commission recommended that counseling and associated support services be provided on an "upfront" basis to individuals seeking to use GI Bill benefits, as well as on a continuing basis as required or requested. The Commission noted that, ". . . more effective use of GI Bill benefits would result if individuals seeking to use their benefits were advised of the intricacies of the program and of their rights and responsibilities at the outset of their training." Additionally, the Commission pointed out that the recommended counseling need not involve direct, individual con-

tact. In many instances, clear, written information would be sufficient and helpful.

The Committee agrees with the Commission's comments and believes that such an approach would be a practical, cost-effective method of ensuring that individuals seeking to train under DVA education programs would have the information necessary to assure the efficient operation and integrity of these programs. Accordingly, the Committee intends that the DVA produce a brochure which clearly and fully explains the provisions of education programs administered by the Department. The brochure should also inform the reader of the various types of training and services available such as tutorial assistance, work-study positions, refresher and remedial training, and counseling assistance generally associated with determining educational, vocational, or professional goals and career selection. Additionally, DVA procedures and policies and related individual responsibilities should be clearly explained. For example, monthly self-certification should be discussed as well as the consequences to the individual if the certification requirements are not met. The Committee also expects the brochure will address, but not be limited to, issues such as mitigating circumstances, change of program limitation, and notification of change of status.

The Committee intends that the DVA brochure shall be designed in such a way that it attracts the attention of those receiving it. The text should be clearly written and useful as a reference to individuals unfamiliar with the technical terms associated with the education programs administered by the DVA.

REPORTING REQUIREMENT AND FEE

Under current law, the DVA annually pays a "reporting fee" to educational institutions and training establishments to help defray the costs of processing reports and certifications required to be submitted to the DVA for veterans and eligible persons. The amount of the fee is determined by multiplying $7 by the number of individuals at an institution receiving benefits under programs of education administered by the DVA, including Chapters 30, 32, 34, 35, 36, and Chapter 106 of title 10. Generally, this number is based on the veterans and eligible persons enrolled in the institution or establishment on October 31. Veterans training under the vocational rehabilitation program for service-connected disabled veterans (Chapter 31, title 38, U.S.C.) are not now, however, included in the tally.

As recommended by the Commission, Section 2 of H.R. 3390, as amended, would include Chapter 31 trainees when calculating the amount of the reporting fee. The Commission notes, in support of its recommendation, that service-connected-disabled veterans often require services and assistance in addition to those provided to non-disabled veteran students. Although a book-handling charge is paid to institutions on behalf of Chapter 31 trainees, the Commission points out that this charge, in many instances, is not paid to the institution because many bookstores are not in the institution's administrative structure and operate as independent entities. Additionally, in its final report dated July 27, 1989, the Commission

notes that the book-handling charge is also a matter of economy for the DVA as it is sometimes used to compensate a book supplier who can more easily and efficiently procure special supplies and equipment for Chapter 31 than can the Department.

WORK STUDY

As provided under section 1685 of title 38, U.S.C., the DVA operates a work-study program for full-time students training under the Montgomery GI Bill-Active Duty (Chapter 30), vocational rehabilitation (Chapter 31), VEAP (Chapter 32), and the Vietnam Era GI Bill (Chapter 34). Under current law, veteran-students who perform work generally related to the administration of education and other DVA programs may receive minimum-wage payments for up to 250 hours of employment during a semester or other enrollment period. Work-study participants may be engaged in (1) activities under the DVA's outreach services program, (2) the preparation and processing of necessary papers and other documents at educational institutions or DVA regional offices, (3) the provision of hospital and domiciliary care at DVA medical centers, or (4) other DVA activities determined appropriate by the Secretary. The DVA determines the number of work-study positions each enrollment period based on the number of veteran-students who can be effectively utilized. Whenever feasible, preference for work-study opportunities is given to service-connected disabled veterans rated 30 percent or more disabled.

Work-study is a popular program that has greatly assisted veterans and the DVA. In its report dated August 29, 1988, the Commission noted that this program was the subject of much comment—in a survey of institutions done by the Commission, during discussions with educators and other participants at Commission meetings, and during visits to the field. The primary concern expressed to the Commission by participating institutions and DVA personnel was the need to attract more students into the program. It was suggested that effective use of the program is hampered by a lack of interested students eligible to participate.

In response to this situation, section 3 of the Committee bill contains a provision recommended by the Commission—that is, to expand eligibility for the DVA work-study program to include eligible persons training under the Chapter 35 Dependents and Survivors Educational Assistance program. It is the Committee's view that including this group of individuals in the pool of those eligible to participate in the work-study program expands the number of students from which the DVA may recruit participants. It also provides eligible survivors and dependents with an opportunity to earn additional income needed to meet basic needs while attending school.

Section 3 of H.R. 3390 would also permit all eligible students attending school on at least a half-time basis to participate in the work-study program. Restricted under current law to full-time students, it is the Committee's view that extending eligibility for work-study to eligible students attending school on at least a half-time basis would further increase the number of potential work-study participants from which the DVA may recruit.

Additionally, section 3 of the Committee bill would remove the current work-study payment limitations and provide that veterans may work up to a maximum of 20 hours per week. Under current law, work-study is limited to performance during a semester or other enrollment period of not more than 250 hours of service, payable at the Federal minimum wage or $625, whichever is higher. It was brought to the attention of the Committee that, because veterans are currently restricted to 250 hours of employment per semester *or other enrollment period,* veterans attending an institution on a semester basis do not have the opportunity to work as many hours as those attending school on a quarter or trimester system. For example, under current law, a veteran attending an institution which operates on a three quarter system could work 250 hours each quarter, for a total of 750 hours. A veteran attending an institution which operates on the semester system, however, could work 250 hours each semester, for a total of only 500 hours. It is the Committee's view that restricting work-study hours on a weekly basis rather than on enrollment period would eliminate the current inequity in earning potential.

ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS

Section 4 of the Committee bill would permit the DVA to accept a school's certification for renewal of an individual's educational benefits following termination for unsatisfactory conduct or progress. Application of this provision would be limited to resumption of the same program at the same educational institution which reported the unsatisfactory progress. Under current law, section 1674 of title 38, the Secretary must find that the cause of the problem has been removed and the program of education suitable to the veteran's aptitudes, interests, and abilities before resuming payment of benefits.

When recommending this change be made, the DVA noted that ". . . experience has shown the Department's development of evidence for purposes of the required determination seldom provides any cogent information which would support a continued denial of benefits. Moreover, the development requirement adds substantially to the time it takes to process these claims to award benefits."

UNIFORMITY OF ATTENDANCE REQUIREMENT

Section 5 of the reported bill, as recommended by the Commission, would make the attendance requirement for vocational education courses consistent with that of degree-granting programs. Current section 1780(a) of title 38, U.S.C., bars payment of educational assistance or subsistence allowances to an individual enrolled in certain courses not leading to a standard college degree for any day of absence in excess of 30 days in a 12-month period.

As pointed out by Mr. John W. Davis, Vice President for Student Services, Asheville-Buncombe Technical Community College, Asheville, North Carolina, current law results in a serious inequity in absence reporting for veterans enrolled in courses not leading to a college degree. In his statement submitted to the Subcommittee, Mr. Davis said, "To illustrate just how unfair the current system

is, we offer the example of a veteran in a NCD [non-college degree] program in a North Carolina community college. The veteran maintained perfect attendance; yet due to the school's schedule of holidays, class breaks, etc., the veteran was charged with two days excessive absence. To compound this absurdity—since he was paid on the basis of a thirty day month and repayment for absences was based on a twenty day month—he actually had to pay back three days instead of two. All of this while having perfect attendance."

In order to correct this inequity, the Committee bill would eliminate the bar to payment described above and require instead that no payment shall be made to a person who is not pursuing his or her course in accordance with the regularly prescribed policies and regulations of the educational institution and of the Secretary, and with the requirements of title 38 education program provisions.

MEASUREMENT OF COURSES

Current law requires a student enrolled in a course with shop instruction to attend three hours (three 60-minute periods) of shop training per week in order to obtain the training-time equivalent of one quarter or one semester hour or one standard class session. In contrast, a student enrolled in academic instruction is required to attend one 50-minute period per week in order to obtain the training-time equivalent of one quarter or one semester hour or one standard class session. Section 6 of H.R. 3390, as amended, would amend section 1788(a) and (c) of title 38, U.S.C., to change the standard for evaluating the training time of DVA students enrolled in courses with shop training to require the DVA to consider a minimum of three 50-minute shop periods per week as the equivalent of one quarter or one semester hour or one standard class session.

The intent of this provision is to conform the training-time measurement standard with the common academic practice of organizing classes, including shop periods, in 50-minute increments. The Committee believes students receiving DVA benefits should not have their training time, and hence their benefits, reduced because they attend a school which follows the generally accepted practice of scheduling shop instruction in 50-minute increments.

CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS

In its report, the Commission stated that, "Under current law, regulations, and policies, there are a variety of distinctions in the treatment of NCD and degree-granting programs of education. Among the most notable are distinct requirements dealing with . . . credit-hour versus clock-hour measurement." In the report it was further noted that, ". . . in 1986, with the enactment of Public Law 99–576, the Congress attempted to deal with situations where an institution offers both degree and NCD programs of education. Section 315 of that law established a 'mixed-measurement' approach designed to ameliorate situations where veterans sitting in the same classroom were treated differently, particularly in terms of attendance requirements and hours of study required. In practice, however, this approach has proven unwieldy and unnecessarily complicated. . . "

The Committee agrees with the Commission's assessment of the current approach to clock-hour measurement of certain unit courses or subjects. Accordingly, section 7 of the Committee bill would simplify the method for measuring pursuit of a course not leading to a standard college degree, offered by an institution of higher learning, where the course consists of one or more required unit courses or subjects creditable toward a standard college degree at the institution. Under this section, the number of such unit course or subject credits would be converted to equivalent clock hours, which then would be combined with the actual number of clock hours being concurrently pursued, if any, to determine training time under the clock-hour measurement standards of section 1788(a)(1) or (2).

Section-By-Section Analysis of the Reported Bill

Section 1 would require the Department of Veterans Affairs to prepare and periodically update an informational document detailing important aspects of each of the education benefit programs administered by the Department. Beginning with Fiscal Year 1990, DVA would be required to distribute a copy of the document to each individual who applies for such benefits, with a copy provided each year thereafter during which the individual receives benefits. Copies also would be provided annually to educational and training institutions, and upon request, to others significantly affected by DVA education programs (e.g., military education personnel). DVA would be directed to use funds appropriated to the Department's readjustment benefits account for the purposes of carrying out this section's requirements.

Section 2 would amend section 1784 (a) and (b) of title 38 to include DVA's chapter 31 vocational rehabilitation program among the chapters to which the school enrollment reporting and course compliance certification requirements apply, respectively. Further, it would amend section 1784(c) to include chapter 31 trainees in the count of enrollments for which a school reporting fee is payable. These amendments would be effective January 1, 1990.

Section 3 would amend section 1685 of title 38 to change the payment and eligibility criteria for DVA's work-study program. More particularly, it would remove the current work-study payment limitations (i.e., performance during a semester or other enrollment period of not more than 250 hours of service, payable at the Federal minimum wage of $625, whichever is higher) and provide, instead, for payment of a work-study allowance at the Federal hourly minimum wage for the agreed upon number of hours of service during the applicable period, not to exceed an aggregate of 20 hours a week. Provision for advance payment of such allowances would be eliminated.

Further, this section would expand work-study eligibility to include eligible persons training under the chapter 35 Dependents' and Survivors' Educational Assistance program, and would lower the rate of educational pursuit required for work-study eligibility from full-time to at least half-time pursuit of a program of education under chapter 30, 31, 32, 34 or 35 of title 38. A conforming change would be made to the current provision permitting the Sec-

retary to allow completion of a work-study agreement notwithstanding the student's failure to maintain the required rate of educational pursuit during the applicable period of performance.

Finally, this section would make conforming language changes consistent with the new authorization of work study for chapter 35 eligibles, and would make one clerical amendment.

Section 4 would make identical amendments to sections 1674 and 1724 of title 38, changing the conditions under which a suspension of educational assistance allowance to a veteran or eligible person by reason of his or her unsatisfactory conduct/progress may be lifted. Specifically, payment of allowances may be resumed if the Department finds that, in the case of an individual who continues enrollment at the same educational institution in the same program, the educational institution has approved the student's reenrollment and certified same to DVA or, in the case of a proposed change by the individual of either educational institution or program of education: (a) the cause of unsatisfactory conduct/progress has been removed; (b) the proposed program is suitable to the individual's aptitudes, interests, and abilities; and (c) the proposed change of program meets the requirements for approval under section 1791 of title 38.

Section 5 would amend section 1780(a) by eliminating the bar to payment of educational assistance or subsistence allowances to an individual enrolled in certain courses not leading to a standard college degree for any day of absence in excess of 30 days in a 12-month period; providing, instead, that no such payment shall be made to a person who is not pursuing his or her course in accordance with the regularly prescribed policies and regulations of the educational institution and of the Secretary, and with the requirements of title 38 education program provisions. This section further would make conforming amendments to sections 1674 and 1724 to clarify that DVA shall discontinue educational assistance allowances to an individual based not only on his or her unsatisfactory conduct or progress but, also, on his or her unsatisfactory attendance as determined in accordance with the regularly established standards and practices of the educational institution involved.

Section 6 would amend section 1788(a) to provide that, in order for courses not leading to a standard college degree to be measured on a credit-hour basis, the shop portion of such courses must require three hours (or three 50-minute periods of attendance) each week throughout the quarter or semester for one quarter or one semester hour of credit.

Section 7 would replace the current text of section 1788(e) with a new method for measuring pursuit of a course not leading to a standard college degree, offered by an institution of higher learning, where the course consists of one or more required unit courses or subjects creditable toward a standard college degree at the institution. Under the amendment, the number of such unit course or subject credits would be converted to equivalent clock hours, which then would be combined with the actual number of clock hours being concurrently pursued, if any, to determine training time under the clock-hour measurement standards of section 1788(a)(1) or (2), as appropriate.

Section 8 would make various technical and clerical amendments to the title 38 education benefits programs. First, section 1434 of title 38 would be amended to clarify that lump-sum payments for less than half-time pursuit under chapter 30 shall be calculated at the rate determined under subsection 1432(b). Next, section 1633 of title 38 would be amended to provide that the entitlement charge for pursuit of on-job/apprenticeship training under chapter 32 shall be reduced in the same proportion as the monthly training allowance payable for training of less than 120 hours during a month. Third, two changes to section 1790 would delete an outdated reference to prepayment allowances and include the chapter 30 institutional reporting and recordkeeping requirements among those for whose violation the DVA may suspend educational assistance and disapprove further enrollment or reenrollment of veterans or eligible persons. Finally, technical amendments would be made to the various chapters mentioned to conform certain references to those appropriate to the new Department of Veterans Affairs and clarify that the term "Secretary" as used therein shall mean the Secretary of Veterans Affairs.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Budget Statement

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., Oct. 20, 1989.

Hon. G. V. Montgomery, *Chairman,*
House Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3390, a bill to provide information to veterans receiving education benefits, to expand work-study benefits, and for other purposes, as ordered reported by the House Committee on Veterans' Affairs, October 18, 1989.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Richard Curley, 226–2820.

Sincerely,

Robert D. Reischauer,
Director.

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 3390.
2. Bill title: None.
3. Bill status: As ordered by the House Committee on Veterans' Affairs, October 18, 1989.

4. Bill purpose: To provide information to veterans receiving education benefits, to expand work-study benefits, and for other purposes.

5. Estimated cost to the Federal Government:

(By fiscal years, in millions of dollars)

	1990	1991	1992	1993	1994
Budget Authority	2	2	2	2	2
Outlays	2	2	2	2	2

The budget impact of this bill would fall within budget function 700.

Basis of Estimate

Sections of the bill not discussed below are expected to have minimal budgetary impact. It is assumed that this bill would be enacted before January 1, 1990.

Section 1. This section would require the Department of Veterans Affairs (VA) to distribute information on its education benefit programs. This information would be sent to people applying for and those receiving VA education benefits and to education and training institution officials. Funds used for these purposes would be paid out of the readjustment benefits account. The VA would begin these mailings July 1, 1990. Based on information from the VA on printing and mailing costs, the cost of this provision would be about $200,000 per full fiscal year. Costs would be significantly lower in the first year as a result of the July 1, 1990 effective date.

Section 2. This section would allow the VA to pay a reporting fee to educational institutions serving veterans using benefits under the chapter 31, Title 38, U.S.C., program. Based on information from the VA on reporting fees and CBO baseline assumptions concerning the number training, the cost of this provision would be about $100,000 a year.

Section 3. Under current law, veterans who are full-time students may earn work-study payments by performing services for the VA. They are paid at the Federal minimum wage rate. This section would replace the current work-study restriction of 250 hours of work per semester with a restriction of 20 hours of work per week. Section 3 also would expand work-study eligibility to recipients of survivors and dependents benefits, under chapter 35, Title 38, U.S.C., and to people using education benefits on at least a half-time basis. These changes would become effective January 1, 1990.

(By fiscal years, in millions of dollars)

	1990	1991	1992	1993	1994
Budget Authority	2	2	2	2	2
Outlays	2	2	2	2	2

CBO believes the change in spending as a result of the change in work-study hour limits would be negligible. Those people on a se-

mester system would be able to work more hours than under current law; however, those on a quarter system would be able to work fewer hours.

Estimated costs for expanding work-study eligibility to survivors and dependents are based on the work-study experience of veterans. At the full-time equivalent rate of work-study (600 hours a year), approximately 500 survivors and dependents would earn work-study payments in 1990. This number would rise in the first full year of implementation to about 600 in 1991 and then fall to about 500 by 1994 as a result of a projected decline in survivor and dependent participation in veterans' education programs.

It is expected that the use of work-study by people training part-time would be significantly less than those going to school full-time. People who are going to school on a part-time basis are much more likely to be employed already and earning more than the minimum wage. CBO assumes that part-time students would use work-study 50 percent less than full-time students and that those using work-study would work 50 percent fewer hours, 300 hours a year. This would mean approximately 500 part-time students would earn work-study payments in 1990. This number would rise to about 600 in the first full year of implementation and rise further to approximately 700 by 1994 as a result of the increase in the number of veterans using education benefits.

6. Estimated cost to State and local governments: The Congressional Budget Office estimates that this bill would not affect the budgets of state and local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Curley (226–2820).

10. Estimate approved by:

C.G. NUCKOLS,
(FOR) JAMES L. BLUM,
Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact in fiscal year 1990.

DEPARTMENT VIEWS

The following letter was received from the Department of Veterans Affairs on H.R. 3390 as introduced.

DEPARTMENT OF VETERANS AFFAIRS,
OFFICE OF THE SECRETARY OF VETERANS AFFAIRS,
Washington, D.C., Oct. 25, 1989.

Hon. G.V. Montgomery, *Chairman,*
Committee on Veterans' Affairs,
U.S. House of Representatives,
Washington, D.C. 20515

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department on Veterans Affairs (VA) on H.R. 3390, a bill "To amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes."

While VA supports some of the amendments made by this measure, we oppose other provisions of H.R. 3390 in their present form.

Section 1 of this bill would require VA to prepare and distribute a document containing a detailed description of the important aspects of each of the education programs we administer. Effective with fiscal year 1990, distribution would have to be made to an individual when he or she first applies for education benefits, then on an annual basis for as long as the individual continues to receive such benefits. Further, distribution would be made annually to education and training institutions, and, upon request, to other significantly affected entities. Funding for these activities would come from amounts appropriated to VA's readjustment benefits account.

We oppose enactment of this provision. VA already publishes sufficient informational materials to inform veterans about available education benefits and assist them in applying for such benefits. For example, immediately following a veteran's separation from active duty, VA, through the Veterans Assistance Discharge System (VADS), furnishes information on the potential benefits which accrue to the individual. Six months later, the veteran is again contacted by VADS to remind him or her of these benefits. Additionally, VA annually publishes 1.5 million copies of VA Pamphlet 270982092 which synopsizes each of the current education benefit programs available, identifies VA sources for obtaining further information, and lists locations for filing applications. This pamphlet, which is annually updated, is distributed to all VA facilities, the Armed Forces, and the Public Health Service, and through such sources is available to veterans, servicepersons, and other interested parties. The pamphlet also is provided by VA to anyone upon request.

These and other VA outreach activities have proved effective, and we do not find that the rrquirements of section 1 of this bill would appreciably add to the success of our efforts in this area. Rather, such requirements would severely limit VA's flexibility in determining the most effective means and frequency of disseminating information to the veteran population based on our administrative experience.

Section 2 would require that educational institutions promptly report to VA the enrollment of service-disabled veterans training under chapter 31 of title 38, as well as many changes in such enrollment, and certify to VA the compliance of the institution and its courses with title 38 requirements. In return for this chapter 31 reporting, the educational institution would be authorized to receive a reporting fee computed in accordance with 38 U.S.C. § 1784(c).

VA is studying the concept of including in the school reporting fee count the chapter 31 trainees for whom reports are submitted. Therefore, we recommend that legislation in this area be deferred pending an examination of the need for the fee in the context of the book handling charges already being paid to many institutions of behalf of chapter 31 trainees.

Section 3 of the measure would make several changes to VA's work-study program. First, it would amend the payment criteria to provide for payment of work-study allowances at the Federal

hourly minimum wage for an agreed upon number of hours service during the applicable performance period, not to exceed an aggregate of 20 hours a week. It would also eliminate authority for making advance payments of such allowances. Additionally, work-study eligibility would be extended to include eligible persons training under the chapter 35 Survivors' and Dependents' Educational Assistance program. Finally, this section would lower the rate of educational pursuit required for work-study eligibility from full-time to at least half-time pursuit, and would make various amendments of a technical/clerical nature.

Although VA supports elimination of work-study advance payments, we oppose the other substantive provisions of this section.

With regard to changing the work-study payment scale, we believe that further study is needed in this area. and would refer you to our comments and alternative proposal for consideration set forth in "An Interim Report on Veterans' Education Policy," which we previously furnished the Committee.

Further, we see no basis for the proposed limitation on the number of hours worked to not more than 20 hours a week. Widely varying class schedules may reasonably allow more hours to be worked during some weeks without adversely affecting individual student programs.

As also indicated in the above-mentioned "Interim Report," VA opposes work-study program eligibility for chapter 35 students. We do not need to provide these benefits to nonveterans who can use other government-wide educational assistance opportunities, including Education Department work-study program assistance.

Last, this section's proposed "across-the-board" reduction in the rate of educational pursuit required to be eligible for the VA work-study program is overbroad, in our view. Instead, we would urge enactment of VA's legislative program proposal (see section 106 of S. 1003) to allow certain service-disabled veterans in less than full-time programs to receive work-study benefits.

Section 4 of H.R. 3390 would amend provisions of chapters 34 and 35 to similarly change the respective conditions under which VA may resume educational benefits following their suspension due to the individual's unsatisfactory progress or conduct. These amendments are derived from a VA legislative program proposal and, accordingly, we support them.

Finally, section 5 of the measure would make several technical and clerical amendments to the title 38 education benefits programs. We believe these are appropriate and will improve program administration. Consequently, VA supports these amendments.

We estimate that enactment of H.R. 3390 would result in additional benefits cost of $9 million in fiscal year 1990 and $45.6 million for the first 5 fiscal years. Enactment of the bill would result in administrative costs of less than $100,000 in any year.

Enclosed is a detailed 5-year cost estimate for H.R. 3390, together with the assumptions and methodology used in arriving at this estimate.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 3390 to the Congress.

Sincerely,

EDWARD J. DERWINSKI,
Secretary.

COST ESTIMATE

1. This bill proposes to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes.

2. Section 1 of the bill would require the Secretary to provide, and update periodically, a document containing a detailed description of the benefits, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department. Shown below is the estimated cost of implementing section 1 of this bill.

(Dollars in thousands)

Fiscal Year	Number of Pamphlets	Cost
1990	525,000	$235
1991	460,000	200
1992	470,000	208
1993	480,000	212
1994	525,000	235
Total		$1,090

3. Section 2 would amend section 1784 of title 38 to include chapter 31 trainees for purposes of the payment of reporting fees. Shown below are the estimated benefit cost and additional workload of including the chapter 31 trainees under the reporting fee provision of section 1784.

(Dollars in thousands)

Fiscal Year	Chapter 31 Trainee	Reporting Fee Workload	Cost
1990	22,700	13,200	$92.4
1991	23,100	13,400	93.8
1992	23,200	13,500	94.5
1993	22,900	13,300	93.1
1994	22,700	13,200	92.4
Total			$466.2

4. Section 3 of this bill would amend section 1685 of title 38, the work-study program for veterans who are pursuing full-time programs of rehabilitation, education, or training under chapters 30, 31, 32, and 34. The proposal would include chapter 35 trainees in the program, would allow individuals who are pursuing at least a half-time program to participate, and would eliminate the authority to make advance work-study payments. Further, the proposal

would allow a participant in the work-study program to work up to 20 hours a week. Currently, section 1685(a) allows a work-study participant to perform services of up to 250 hours during or between periods of enrollment.

Shown below are the estimated number of work-study trainees and the additional cost if this proposal were to be enacted. An effective date of January 1, 1990, is assumed.

Fiscal Year	Work-study Trainees	Cost ($000)
1990	29,300	$8,728
1991	24,900	6,726
1992	28,000	8,193
1993	30,900	9,606
1994	33,300	10,795
		$44,048

5. Section 4 of the bill would amend sections 1674 and 1724 of title 38 which currently permit VA to resume payment of educational assistance allowance to an otherwise eligible individual following the termination of such allowance because of unsatisfactory conduct or progress, if the Secretary finds that the cause of the problem has been removed and the program of education is suitable to the veterans aptitudes, interests, and abilities. These amendments would permit VA to accept a school certification of reenrollment as showing that the cause of the unsatisfactory conduct or progress is removed and the program is suitable. This would be limited to a resumption of the same program at the same educational institution which reported the unsatisfactory conduct of progress. This proposal would provide minimal benefit cost and administrative savings; i.e., less than $1 million and $100,000 respectively.

6. Section 5 of the bill would make certain technical and clerical amendments. Section 1434 of title 38 would clarify that lump-sum payment for the entire quarter, semester, or term for those eligible individuals pursuing a program of education on less than a half-time basis is payable at the rate determined by section 1432(b) of that title. Enactment of this provision would create no additional cost to VA. In addition, section 5 of the bill would amend section 1633 of chapter 32 to provide that entitlement for apprenticeship or other on-the-job training would be reduced in the same proportion as the monthly training allowance payable is reduced under subsection (b) of that section when the trainee works less than 120 hours during a month. Since VA currently reduces entitlement on this basis for apprenticeship or other on-job training under 38 C.F.R. § 21.5072(d)(3)(iii), there would be no additional cost as a result of this technical change.

The remaining provisions of section 5 are technical amendments which would have no cost impact on the VA.

METHODOLOGY

a. H.R. 3390, 101st Congress.

b. This bill proposes to amend title 38, United States Code, with respect to certain veterans' education programs, and for other purposes.

c. *Estimated 5-year cost.*—See cost estimate.

d. *Employment requirements.*—See cost estimate.

e. *Change in caseload.*—See cost estimate.

f. *Methodology.*—The cost estimated for section 1 of this proposal assumes an average cost of $.045 per pamphlet and a mailing cost of $.40 per pamphlet. In determining the number of pamphlets required per year, the total projected number of education trainees was used as the base. This was increased by 10 percent to account for those individuals who would apply for benefits and would be denied because of ineligibility. In addition, it was assumed that an additional 10,000 pamphlets per year would be needed for the education and training institution officials and military education personnel.

In costing section 2 of this proposal, it was assumed that the 1990 reporting fee for chapter 31 trainees would be paid for those persons in training on October 31, 1989, although the section would be effective January 1, 1990. Under section 1784, the reporting fee is computed on the basis of the number of trainees in training as of October 31, each year (except where an educational institution or joint apprenticeship training committee establishes that eligible veteran and eligible person enrollment on such date varies more than 15 percent from the eligible enrollment in such institution). The October 1988 trainee caseload for chapter 31 was 14,349 or 58 percent of the total 1988 chapter 31 trainees (24,704). It was assumed that this ratio would remain the same in the outyears. The estimated number of trainees was then multiplied by $7 to arrive at the annual cost.

In costing section 3 of this bill, the estimated additional cost was derived based on available chapter 31, 32, and 34 work-study program information which was then applied to the population which would be eligible under this proposal. An estimated 11.7 percent of chapter 31, 32, and 34 full-time trainees participated in the work-study program during 1988. The average number of hours worked per year was 124, with an average payment of $416 per trainee. Using September 1988 data, it was estimated that approximately 91 percent of chapter 32 and 34 trainees trained at the half-time or greater rate.

In costing this section, it was assumed that, since the average number of hours worked per participant historically is significantly below the maximum number of hours allowed, this situation would continue so that changing from 250 hours per semester or term to a maximum of 20 hours per week, as proposed, would have little or no cost impact. The annual number of chapter 30, 31, 32, and 35 trainees per year was derived and the total was then multiplied by 91 percent to determine the estimated number of trainees who would be training at the half-time or greater rate. These figures were then multiplied by 11.7 percent to estimate the number of persons who would participate in the work-study program. The final work-study trainee cases were multiplied by $416 to arrive at the estimated cost of this provision. Then, the current estimated cost of the chapter 30, 31, and 32 work-study programs was sub-

tracted to arrive at the projected additional cost of this proposal. The elimination of the advance payment provision has an insignificant benefit savings or administrative cost; i.e., less than $1 million and $100,000 respectively. Therefore, the cost impact of the advance payment provision was not included in the cost estimate for section 3.

g. *Other Assumptions.*—An effective date of January 1, 1990, was assumed for all provisions. The administrative cost of implementing this bill is anticipated to be insignificant; i.e., less than $100,000 per fiscal year.

h. *Similar Estimates.*—None.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * * * *

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

* * * * * * *

SUBCHAPTER I—PURPOSES; DEFINITIONS

* * * * * * *

§ 1402. Definitions

For the purposes of this chapter—

(1) * * *

* * * * * * *

[(5) The term "Secretary" means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.]

(5) The term "Secretary" means the Secretary of Veterans Affairs.

* * * * * * *

(7) The term "Secretary of Defense" means the Secretary of Defense, except that it means the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§ 1411. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) * * *

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the [Administrator] *Secretary* determines is not service connected, or for hardship; (II) for the convenience of the Government, in the case of an individual who completed not less than 20 months of continuous active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of continuous active duty if the initial obligated period of active duty of the individual was at least three years; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy; or

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty on October 19, 1984, and without a break in service since October 19, 1984, and—

(i) * * *

(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the [Administrator] *Secretary* determines is not service connected, or for hardship; (II) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;

* * * * * * * *

§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

(a) * * *

(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the [Administrator] *Secretary* determines is not service connected, (iii) for hardship, (iv) in the

case of an individual discharged or released after 20 months of such service, for the convenience of the Government, or (v) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the [Administrator] *Secretary* determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected diability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the [Administrator] *Secretary* determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service for the convenience of the Government, or (V) involuntarily for the convenience of the Government, as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

* * * * * * *

§ 1414. Payment of basic educational assistance

The [Administrator] *Secretary* shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education, a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

§ 1415. Amount of basic educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except as otherwise provided in subsections (b) and (c) of this section, a basic educational assistance allowance under this subchapter shall be paid—

(1) * * *

(2) at an appropriately reduced rate, as determined under regulations which the [Administrator] *Secretary* shall pre-

scribe, for an approved program of eduction pursued on less than a full-time basis.

(b) In the case of an individual entitled to an educational assistance allowance under section 1411 or 1418 of this title and whose initial obligated period of active duty is two years, a basic educational assistance allowance under this chapter shall be paid—

(1) * * *

(2) at an appropriately reduced rate, as determined under regulations which the [Administrator] *Secretary* shall prescribe, for an approved program of education pursued on less than a full-time basis.

(c) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary[,] *of Defense,* may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsections (a) and (b) of this section as the Secretary *of Defense* considers appropriate, but the amount of any such increase may not exceed $400 per month.

* * * * * * *

§ 1417. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) * * *

(B) who dies while on active duty,

the [Administrator] *Secretary* shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

* * * * * * *

§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in the section referred to as the "open period"), an individual who—

(1) * * *

* * * * * * *

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary *of Defense* shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

(1) * * *

* * * * * * *

(3)(A) * * *

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the [Administrator] *Secretary* determines is not service connected, or (iii) hardship; or

* * * * * * *

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

§ 1421. Supplemental educational assistance for additional service

(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary *of Defense,* may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1411 or 1418 of this title who—

(1) * * *

* * * * * * *

(b) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary *of Defense*, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1412 or 1418 of this title who—

(1) * * *

* * * * * * *

§ 1422. Amount of supplemental educational assistance

(a) The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

(1) at a monthly rate of $300 for an approved program of education pursued on a full-time basis; or

(2) at an appropriately reduced rate, as determined under regulations which the [Administrator] *Secretary* shall prescribe, for an approved program of education pursued on less than a full-time basis.

(b) In the case of a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the Secretary concerned, pursuant to regulations to be prescribed by the Secretary *of Defense,* as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to such regulations, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary concerned considers appropriate, but the amount of any such increase may not exceed $300 per month.

§ 1423. Payment of supplemental educational assistance under this subchapter

The [Administrator] *Secretary* shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

§ 1431. Time limitation for use of eligibility and entitlement

(a) * * *

(b) In the case of any eligible individual who has been prevented, as determined by the [Administrator] *Secretary,* from pursuing a program of education under this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of this chapter before the nature of such individual's discharge or release was changed by appropriate authority, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

* * * * * * *

(d) In the case of an individual eligible for educational assistance under this chapter—

(1) * * *

(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the [Administrator] *Secretary* shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

* * * * * *

§ 1433. Bar to duplication of educational assistance benefits

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently but shall elect (in such form and manner as the [Administrator]

Secretary may prescribe) under which program to receive educational assistance.

* * * * * * *

(c) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the [Administrator] *Secretary* may prescribe) the program to which such service is to be credited.

§ 1434. Program administration

(a)(1) Except as otherwise provided in this chapter, the provisions of section 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1780(c), *1780(f)*, 1780(g), 1786(a), and 1787) shall be applicable to the provision of educational assistance under this chapter.

* * * * * * *

(3) The [Administrator] *Secretary* may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the [Administrator] *Secretary* shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

(b) The [Administrator] *Secretary* may, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education by an individual enrolled in or pursuing a program of education under this chapter for any period for which the individual receives educational assistance under this chapter. Subject to such reports and proof as the [Administrator] *Secretary* may require to show an individual's enrollment in and satisfactory pursuit of such individual's program, the [Administrator] *Secretary* may withhold payment of benefits to such individual until the required proof is received and the amount of the payment is appropriately adjusted.

(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 1432(b) of this title.

[(c)] *(d)* Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

§ 1435. Allocation of administration and of program costs

(a) * * *

* * * * * * *

(d) Funds for the payment by the [Administrator] *Secretary* of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans' Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the [Administrator] *Secretary,* the Secretary of Defense and the Secretary of the Treasury. Funds for the payment by the [Administrator] *Secretary,* of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The [Administrator] *Secretary* and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

* * * * * * *

§ 1436. Reporting requirement

(a) The Secretary of Defense and the [Administrator] *Secretary* shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

(b) The Secretary *of Defense* shall include in each report submitted under this section—

(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary *of Defense* considers appropriate.

(c) The [Administrator] *Secretary* shall include in each report submitted under this section—

(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the [Administrator] *Secretary* considers appropriate.

(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than January 1, 1986.

(2) The first report by the [Administrator] *Secretary* under this section shall be submitted not later than January 1, 1988.

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * * * *

§ 1501. Definitions

For the purposes of this chapter—

(1) * * *

* * * * * * *

(4) The term "program of independent living services and assistance" includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including such counseling, diagnostic, medical, social, and psychological, and educational services as are determined by the [Administrator] *Secretary* to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

* * * * * * *

(9) The term "vocational rehabilitation program" includes—

(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the [Administrator] *Secretary* to be needed—

(i) * * *

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§ 1502. Basic entitlement

A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if such person—

(1)(A) is a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940, or (B) is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the [Administrator] *Secretary* determines will likely be compensable under chapter 11 of this title; and

(2) is determined by the [Administrator] *Secretary* to be in need of rehabilitation because of an employment handicap.

§ 1503. Periods of eligibility

(a) * * *

(b)(1) In any case in which the [Administrator] *Secretary* determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the [Administrator] *Secretary* shall prescribe, for such veteran to participate in such a program.

(2) In any case in which the [Administrator] *Secretary* determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

(A) such veteran had not met the requirement of a discharge or release from active military, naval, or air service under conditions other than dishonorable before (i) the nature of such discharge or release was changed by appropriate authority, or (ii) the [Administrator] *Secretary,* determined, under regulations prescribed by the [Administrator] *Secretary,* that such discharge or release was under conditions other than dishonorable, or

(B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the [Administrator] *Secretary* made a determination that such discharge or dismissal is not a bar to such benefits,

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(3) In any case in which the [Administrator] *Secretary* determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability described in section 1502(1)(A) of this title, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

(c) In any case in which the [Administrator] *Secretary* determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the [Administrator] *Secretary* also determines, on the basis of such veteran's particular employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

(1) that such veteran had not previously been rehabilitated to the point of employability;

(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's employment handicap and capabilities; or

(3) under regulations which the [Administrator] *Secretary* shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d) In any case in which the [Administrator] *Secretary* has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the [Administrator] *Secretary* also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

§ 1504. Scope of services and assistance

(a) Services and assistance which the [Administrator] *Secretary* may provide under this chapter, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, include the following:

(1) * * *

* * * * * * *

(7) vocational and other training services and assistance, including (A) individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the [Administrator] *Secretary* to be necessary to accomplish the purposes of the rehabilitation program in the individual case, and (B) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act.

* * * * * * *

(12) For the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the [Administrator] *Secretary* determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the [Administrator] *Secretary* shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

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(16) Other incidental goods and services determined by the [Administrator] *Secretary* to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

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(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the [Administrator] *Secretary*.

§ 1505. Duration of rehabilitation programs

(a) In any case in which the [Administrator] *Secretary* is unable to determine whether it currently is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 1506(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the [Administrator] *Secretary* determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonabley feasible in the case of such veteran.

(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the [Administrator] *Secretary* determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

(c) The [Administrator] *Secretary* may extend the period of a vocational rehabilitation program for a veteran to the extent that the [Administrator] *Secretary* determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the [Administrator] *Secretary* also determines—

(1) * * *

(2) under regulations which the [Administrator] *Secretary* shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d) Unless the [Administrator] *Secretary* determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the [Administrator] *Secretary* that such veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible) may not exceed twenty-four months.

§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The [Administrator] *Secretary* shall provide any veteran who has a service-connected disability described in section 1502(1)(A) or (B) of this title and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

* * * * * * *

(b) In any case in which the [Administrator] *Secretary* has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

(c) In any case in which the [Administrator] *Secretary* has determined that a veteran has a serious employment handicap but the [Administrator] *Secretary* is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the [Administrator] *Secretary* determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

(d) The [Administrator] *Secretary* shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 1505(a) of this title), the [Administrator] *Secretary* shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the [Administrator] *Secretary* shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the [Administrator] *Secretary* shall assign a Veterans' Administration employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

§ 1507. Individualized vocational rehabilitation plan

(a) The [Administrator] *Secretary* shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

(b) The [Administrator] *Secretary* shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the [Administrator] *Secretary* shall (1) redevelop such plan with such veteran if the [Administrator] *Secretary* determines, under regulations which the [Administrator] *Secretary* shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the [Administrator] *Secretary* determines, under such regulations, that redevelopment of such plan is not appropriate.

(c)(1) * * *

* * * * * * *

(3) The [Administrator] *Secretary* shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the [Administrator] *Secretary* in which case the [Administrator] *Secretary* shall render a decision no later than the last day of the period prescribed in such regulations.

§ 1508. Allowances

(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the [Administrator] *Secretary* to be a period of such veteran's participation under this chapter in a rehabilitation program.

(2) In any case in which the [Administrator] *Secretary* determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for

full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

* * * * * * *

(b) Except as otherwise provided in this section, the [Administrator] *Secretary* shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$310	$384	$452	$33
Three-quarter-time	233	288	339	25
Half-time	155	193	227	17
Farm cooperative, apprentice, or other on-job training:				
Full-time	271	327	377	24
Extended evaluation:				
Full-time	310	384	452	33
Independent living training:				
Full-time	310	384	452	33
Three-quarter-time	233	288	339	25
Half-time	155	193	227	17

(c)(1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the [Administrator] *Secretary* a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the [Administrator] *Secretary* is authorized to reduce the subsistance allowance of such veteran to an amount considered equitable and just in accordance with criteria which the [Administrator] *Secretary* shall establish in regulations which the [Administrator] *Secretary* shall prescribe.

* * * * * * *

(d) The [Administrator] *Secretary* shall, in accordance with regulations which the [Administrator] *Secretary* shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the [Administrator] *Secretary* shall prescribe.

(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the [Administrator] *Secretary* may (1) pay to such facility the

cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

(f)(1)(A) In any case in which the [Administrator] *Secretary* determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 30 or 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under either chapter 30 or chapter 34 of this title, if the [Administrator] *Secretary* approves the educational, professional, or vocational objective chosen by such veteran for such program.

* * * * * * *

§ 1509. Entitlement to independent living services and assistance

In any case in which the [Administrator] *Secretary* has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran currently is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

§ 1510. Leaves of absence

The [Administrator] *Secretary* shall prescribe such regulations as the [Administrator] *Secretary* determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

§ 1511. Regulations to promote satisfactory conduct and cooperation

The [Administrator] *Secretary* shall prescribe such rules and regulations as the [Administrator] *Secretary* determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursung rehabilitation programs under this chapter. In any case in which the [Administrator] *Secretary* determines that a veteran has failed to maintain satisfactory conduct or cooperation, the [Administrator] *Secretary* may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the [Administrator] *Secretary* determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the [Administrator] *Secretary*

may reinstitute such services and assistance only if the [Administrator] *Secretary* determines that—

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§ 1512. Revolving fund loans

The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the [Administrator] *Secretary,* under regulations prescribed by the [Administrator] *Secretary,* for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents (as provided in section 1508(b) of this title) to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the [Administrator] *Secretary,* by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

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§ 1514. Vocational rehabilitation outside the United States

Under regulations which the [Administrator] *Secretary* shall prescribe, a vocational rehabilitation program under this chapter may be provided outside the United States if the [Administrator] *Secretary* determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

§ 1515. Rehabilitation resources

(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the [Administrator] *Secretary* may—

(1) use the facilities of any Federal agency (including the Veterans' Administration), or of any State or local government agency receiving Federal financial assistance, to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay in any case in which the [Administrator] *Secretary* determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

* * * * * * *

(3) employ such additional personnel and experts as the [Administrator] *Secretary* considers necessary; and

* * * * * * *

(b)(1) * * *

(2) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be

furnished in facilities over which the [Administrator] *Secretary* has direct jurisdiction.

* * * * * * *

(4) The [Administrator] *Secretary* shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.

§ 1516. Promotion of employment and training opportunities

(a) The [Administrator] *Secretary* shall actively promote the development and establishment of employment, training, and other related opportunities for (1) veterans who are participating or who have participated in a rehabilitation program under this chapter, (2) veterans with service-connected disabilities, and (3) other veterans to whom the employment emphases set forth in chapter 42 of this title apply. The [Administrator] *Secretary* shall promote the development and establishment of such opportunities through Veterans' Administration staff outreach efforts to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations. In carrying out the provisions of this subsection with respect to veterans referred to in clause (3) of the first sentence of this subsection, the [Administrator] *Secretary* shall place particular emphasis on the needs of categories of such veterans on the basis of applicable rates of unemployment.

(b)(1) The [Administrator] *Secretary,* pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual cases in which the [Administrator] *Secretary* determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity.

* * * * * * *

(3) The [Administrator] *Secretary* shall prescribe regulations under this subsection in consultation with the Secretary of Labor and, in prescribing such regulations, shall take into consideration the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V) and section 2012 of this title, and regulations prescribed under such provisions.

§ 1517. Employment assistance

(a)(1) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who the [Administrator] *Secretary* has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veter-

an receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training.

(2) Assistance provided under this subsection may include:

(A) * * *

* * * * * * *

(C) utilization of the job development and placement services of (i) programs under the Rehabilitation Act of 1973, (ii) the State employment service and the Veterans' Employment Service of the Department of Labor, (iii) the Office of Personnel Management, (iv) any other public or nonprofit organization having placement services available, and (v) any for-profit entity in a case in which the [Administrator] *Secretary* has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclause (i) through (iv) of this clause.

(b)(1) In any case in which a veteran has completed a vocational rehabilitation program for self-employment in a small business enterprise under this chapter, the [Administrator] *Secretary* shall assist such veteran in securing, as appropriate, a loan under subchapter IV of chapter 37 of this title and shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to insure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

(2) In the case of a veteran described in clause (12) of section 1504(a) of this title who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise, the [Administrator] *Secretary* may, subject to the limitations and criteria provided for in such clause, provide such veteran with such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

§ 1518. Personnel training, development, and qualifications

(a) The [Administrator] *Secretary* shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the [Administrator] *Secretary* may employee the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

(b) The [Administrator] *Secretary* shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

(c) Notwithstanding any other provision of law, the [Administrator] *Secretary* shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(e) of this title as the [Administrator] *Secretary* determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the [Administrator] *Secretary* shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

§ 1519. Rehabilitation research and special projects

(a) The [Administrator] *Secretary* shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the [Administrator] *Secretary* shall conduct and provide support for the development or conduct, or both the development and conduct, of—

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(b) For the purpose specified in subsection (a) of this section, the [Administrator] *Secretary* is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

(c) The [Administrator] *Secretary* shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

§ 1520. Program of independent living services and assistance

(a)(1) During fiscal years 1982 through 1989, the [Administrator] *Secretary* may, under contracts with entities described in paragraph (7) of this subsection, or through facilities of the Department of Medicine and Surgery, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the [Administrator] *Secretary* shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in paragraph (2) of this subsection.

* * * * * * *

(3) The [Administrator] *Secretary* shall, to the maximum extent feasible, include among those veterans who are provided with programs of independent living services and assistance under this section substantial numbers of veterans described in paragraph (2) of

this subsection who are receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the [Administrator] *Secretary* contracts for the provision of care to veterans.

(4) A program of independent living services and assistance for a veteran shall consist of such services described in section 1504(a) and (b) of this title as the [Administrator] *Secretary* determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 1507 of this title.

* * * * * * *

(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the [Administrator] *Secretary* determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.

(b) Not later than February 1, 1989, the [Administrator] *Secretary* shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regarding veterans' participation in the program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the [Administrator] *Secretary* for administrative or legislative action or both regarding the program.

§ 1521. Veterans' Advisory Committee on Rehabilitation

(a)(1) The [Administrator] *Secretary* shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the [Administrator] *Secretary* from the general public and shall serve for terms to be determined by the [Administrator] *Secretary* not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The [Administrator] *Secretary* may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

* * * * * * *

(b) The [Administrator] *Secretary* shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

(c) The Committee shall submit to the [Administrator] *Secretary* an annual report on the rehabilitation programs and activities of the Veterans' Administration and shall submit such other reports and recommendations to the [Administrator] *Secretary* as

the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs. The [Administrator] *Secretary* shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the [Administrator] *Secretary* since the previous annual report of the [Administrator] *Secretary* was submitted to the Congress pursuant to such section.

CHAPTER 32—POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE

* * * * * * *

SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

§ 1621. Eligibility.

(a) * * *

(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the [Administrator] *Secretary* and the Secretary of Defense [(hereinafter in this chapter referred to as the "Secretary")], or (2) the participant is discharged or released from active duty.

(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the [Administrator] *Secretary* and the Secretary *of Defense*.

* * * * * * *

(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the [Administrator] *Secretary* and the Secretary *of Defense*.

§ 1622. Contributions; matching fund

(a) Except as provided in subsections (c) and (d) of this section, each person electing to participate in the program shall agree to have a monthly deduction made from such person's military pay. Such monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by 5. Any such amount contributed by the participant or contributed by the Secretary *of Defense* pursuant to subsection (c) of this section shall be deposited in a deposit fund account entitled the "Post-Vietnam Era Veterans Education Account" (hereinafter in this chapter referred to as the "fund") to be established in the Treasury of the

United States. Contributions made by the participant shall be limited to a maximum of $2,700.

* * * * * * *

(c) The Secretary *of Defense* is authorized to contribute to the fund of any participant such contributions as the Secretary *of Defense* deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces, including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section. The Secretary *of Defense* is authorized to issue such rules and regulations as the Secretary *of Defense* deems necessary or appropriate to implement the provisions of this subsection.

(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a) of this title, to have been made by monthly deductions from such participant's military pay in the amount of $100 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary *of Defense* and the **[**Administrator**]** *Secretary.*

(e) Any amount transferred to the **[**Administrator**]** *Secretary* from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary *of Defense* under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.

§ 1623. Refunds of contributions upon disenrollment

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624 of this title.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the **[**Administrator**]** *Secretary* of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the **[**Administrator**]** *Secretary* and the Secretary *of Defense.*

* * * * * * *

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary *of Defense* under the authority of section 1622(c) of this title remaining in the fund shall be refunded to **[**the**]** *such* Secretary.

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§ 1625. Discharge or release under conditions which would bar the use of benefits

If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the [Administrator] *Secretary* of such discharge or release, whichever is later.

SUBCHAPTER III—ENTITLEMENT; DURATION

§ 1631. Entitlement; loan eligibility

(a)(1) * * *

(2) Except as provided in section 1633 of this title and subject to section 1641 of this title, the amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary *of Defense*, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

* * * * * * *

(e)(1) Subject to the provisions of paragaph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amounts as the [Administrator] *Secretary* determines, in accordance with regulations which the [Administrator] *Secretary* shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the [Administrator] *Secretary* or under any State or local program.

* * * * * * *

§ 1632. Duration; limitations

(a)(1) * * *

(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the [Administrator] *Secretary*

determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability only if the veteran submits an application for such extension of the [Administrator] *Secretary* within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the [Administrator] *Secretary* for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

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§ 1633. Apprenticeship or other on-job training

(a) * * *

* * * * * * *

(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.

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SUBCHAPTER IV—ADMINISTRATION

§ 1641. Requirements

(a)(1) * * *

(2) The [Administrator] *Secretary* may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", and pursuant to such regulations as the [Administrator] *Secretary* shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.

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§ 1642. Reporting requirements

The [Administrator] *Secretary* and the Secretary *of Defense* shall submit a joint report each year to the Committees on Veterans' Affairs of the Senate and House of Representatives detailing the operations of the program provided for in this chapter during the preceding year. The report shall be submitted by January 15 of each year.

§ 1643. Deposits; reports

Deductions made by the Department of Defense from the military pay of any participant shall be promptly transferred to the [Administrator] *Secretary* for deposit in the fund. The Secretary *of Defense* shall also submit to the [Administrator] *Secretary* a report each month showing the name, service number, and the amount of the deduction made from the military pay of each initial enrollee, any contribution made by the Secretary *of Defense* pursuant to section 1622(c) of this title, as well as any changes in each participant's enrollment and/or contribution. The report shall also include any additional information the [Administrator] *Secretary* and the Secretary *of Defense* deem necessary to administer this program. The [Administrator] *Secretary* shall maintain accounts showing contributions made to the fund by individual participants and by the Secretary as well as disbursements made from the fund in the form of benefits.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

* * * * * * *

[1685. Veteran-student services.]
1685. Work-study allowance.

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SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

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§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable

delimiting period for such length of time as the [Administrator] *Secretary* determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the [Administrator] *Secretary* shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

* * * * * * *

(3)(A) * * *

(B) Upon completion of a program or course pursued by virtue of eligiblity provided by this paragraph, the [Administrator] *Secretary* shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance shall be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragaph using eligibility provided by this paragraph unless the [Administrator] *Secretary* determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. Any such determination shall be made in accordance with regulations which the [Administrator] *Secretary* shall prescribe.

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Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the [Administrator] *Secretary,* from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

* * * * * * *

§ 1663. Educational and vocational counseling

The [Administrator] *Secretary* shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the [Administrator] *Secretary* deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training es-

tablishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances. In any case in which the [Administrator] *Secretary* has rated the veteran as being incompetent, such counseling shall be required to be provided to the veteran prior to the selection of a program of education or training. At such intervals as the [Administrator] *Secretary* deems necessary, the [Administrator] *Secretary* shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the [Administrator] *Secretary* deems practicable. The [Administrator] *Secretary* shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of such counseling services.

SUBCHAPTER III—ENROLLMENT

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§ 1671. Applications; approval

Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the [Administrator] *Secretary* which shall be in such form, and contain such information, as the [Administrator] *Secretary* shall prescribe. The [Administrator] *Secretary* shall approve such application unless the [Administrator] *Secretary* finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran's or person's selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered. The [Administrator] *Secretary* shall notify the veteran or person of the approval or disapproval of the veteran's or person's application.

§ 1673. Disapproval of enrollment in certain courses

(a) The [Administrator] *Secretary* shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the [Administrator] *Secretary* finds to be avocational or recreational in character (or the advertising for which the [Administrator] *Secretary* finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of

bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

* * * * * * *

(b) The [Administrator] *Secretary* shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The [Administrator] *Secretary* shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the [Administrator] *Secretary* may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d)(1) Except as provided in paragraph (2) of this subsection, the [Administrator] *Secretary* shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the [Administrator] *Secretary* finds that more than 85 percent of the students enrolled in the course are having all or part of their tuitions, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title or under chapter 106 of title 10. The [Administrator] *Secretary* may waive the requirements of this subsection, in whole or in part, if the [Administrator] *Secretary* determines, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, 35, or 36 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other per centum as the [Administrator] *Secretary* prescribes in regulations, of the total student enrollment at such institution (computed separately for the main compus and any branch or extension of such institution), except that the [Administrator] *Secretary* may apply the provisions of this subsection with respect to any course in which the [Administrator] *Secretary* has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

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§ 1674. Discontinuance for unsatisfactory conduct or progress

The [Administrator] *Secretary* shall discontinue the educational assistance allowance of an eligible veteran if, at any time, the [Administrator] *Secretary* finds that according to the regularly prescribed standards and practices of the educational institution, the veteran's [conduct] *attendance, conduct,* or progress is unsatisfactory. The [Administrator] *Secretary* may renew the payment of the educational assistance allowance only if the [Administrator] *Secretary* finds that—

[(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

[(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to the veteran's aptitudes, interests, and abilities.]

(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified it to the Department of Veterans Affairs; or

(2) in the case of a proposed change of either educational institution or program of education by the veteran—

(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interests, and abilities; and

(C) if a proposed change of program is involved, the change meets the requirements for appproval under section 1791 of this title.

§ 1676. Education outside the United States

An eligible veteran may not enroll in any course at an educational institution not located in a State unless such course is pursued at an approved institution of higher learning and the course is approved by the [Administrator] *Secretary*. The [Administrator] *Secretary* may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning not located in a State if the [Administrator] *Secretary* determines that such enrollment is not in the best interest of the veteran or the Federal Government.

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SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

§ 1681. Educational assistance allowance

General

(a) The [Administrator] *Secretary* shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veterans' subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

* * * * * * *

§ 1682. Computation of educational assistance allowances

(a) * * *

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) * * *

* * * * * * *

(C) a half-time basis (a minimum of 5 clock hours per week), shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the [Administrator] *Secretary.* In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

* * * * * * *

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the [Administrator] *Secretary,* for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

* * * * * * *

(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the [Administrator] *Secretary* determines, in accordance with regulations which the [Administrator] *Secretary* shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser. The amount of the educational assistance

allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the [Administrator)] *Secretary* or under any State or local program.

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[§ 1685. Veteran-student services] ***§ 1685. Work-study allowance***

(a) [Veteran-students] *Individuals* utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as "work-study allowance"). Such work-study allowance shall be paid in an amount equal to [either] the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) times [two hundred and fifty or $625, whichever is the higher] *the number of hours worked during the applicable period,* in return for such [veteran-student's] *individual's* agreement to perform services, during or between periods of enrollment, aggregating [two hundred and fifty hours during a semester or other applicable enrollment period,] *not more than 20 hours a week,* required in connection with (1) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the [Administrator] *Secretary* shall determine appropriate. [An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever is the higher.] [A veteran-student] *An individual* shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the [veteran-student's] *individual's* agreement to perform the number of hours of work specified in the agreement.

(b) Notwithstanding any other provision of law, the [Administrator] *Secretary* shall utilize, in connection with the activities specified in subsection (a) of this section, the services of [veteran-students who are pursuing full-time programs of rehabilitation, education, or training under chapter 30, 31, 32 or 34 of this title.] *individuals who are pursuing at least half-time programs of rehabilitation, education, or training under chapter 30, 31, 32, 34, or 35 of this title.* In carrying out this section, the [Administrator] *Secretary,* wherever feasible, shall give priority to [veterans] *individuals* with disabilities rated at 30 [per centum] *percent* or more for purposes of chapter 11 of this title. In the event [the veteran

ceases to be a full-time student before completing such agreement, the veteran] *an individual ceases to be at least a half-time student before completing such agreement, the individual* may, with the approval of the [Administrator] *Secretary,* be permitted to complete such agreement.

(c) The [Administrator] *Secretary* shall determine the number of [veterans] *individuals* whose services the Veterans' Administration can effectively utilize and the types of services that such [veterans] *individuals* may be required to perform, on the basis of a survey, which the [Administrator] *Secretary* shall conduct annually, of each Veterans' Administration regional office in order to determine the numbers of [veteran-students] *individuals* whose services can effectively be utilized during an enrollment period in each geographical area where Veterans' Administration activities are conducted, and shall determine which [veteran-students] *individuals* shall be offered agreements under this section in accordance with regulations which the [Administrator] *Secretary* shall prescribe, including as criteria (1) the need of the [veteran] *individuals* to augment the [veteran's] *individual's* educational assistance or subsistence allowance; (2) the availability to the [veteran] *individual* of transportation to the place where the [veteran's] *individual's* services are to be performed; (3) the motivation of the [veteran] *individual*; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

(d) While performing the services authorized by this section, [veteran-students] *individuals* shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Office of Personnel Management.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

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§ 1691. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran who—

(1) has not received a secondary school diploma (or an equivalency certificate), or

(2) is not on active duty and who, in order to pursue a program of education for which the veteran would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an apropriate educational institution,

the [Administrator] *Secretary* may, without regard to so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(b)(1) The [Administrator] *Secretary* shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a)(2) of this section, an educational assistance allowance as provided in sections 1681 and 1682 (a) or (b) of this title.

(2) The [Administrator] *Secretary* shall pay to an eligible veteran described in subsection (a)(1) of this section who is pursuing a course or courses or program under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate) an educational assistance allowance (A) at the rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 1682(a) of this title, whichever is the lesser.

* * * * * * *

§ 1692. Tutorial assistance.

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the [Administrator] *Secretary* may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(b) The [Administrator] *Secretary* shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized, upon certification by the educational institution that—

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CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

1761. Authority and duties of [Administrator.] *Secretary.*

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SUBCHAPTER I—DEFINITIONS

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§ 1701. Definitions.

(a) For the purposes of this chapter and chapter 36 of this title—

(1) * * *

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(4) The term "guardian" includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the [Administrator] *Secretary* under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person.

* * * * * * *

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained such person's majority, or who, having attained such person's majority, is under a legal disability, shall not apply when the [Administrator] *Secretary* determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would not be administratively feasible. In such a case the [Administrator] *Secretary* where necessary to protect the interest of the eligible person, may designate some other person (who may be the eligible person) as the person by or with respect to whom the action so required should be taken.

* * * * * * *

§ 1712. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 1701(a)(1)(A) of this title) is entitled under section 1711 of this title or subchapter V of this chapter may be afforded the person's eighteenth birthday, or on the successful completion of the person's secondary schooling, whichever first occurs, and ending on the person's twenty-sixth birthday, except that—

(1) if the person is above the age of compulsory school attendance under applicable State law, and the [Administrator] *Secretary* determines that the person's best interests will be served thereby, such period may begin before the person's eighteenth birthday;

(2) if the person has a mental or physical handicap, and the [Administrator] *Secretary* determines that the person's best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 1736 of this title, such period may begin before the person's eighteenth birthday, but not before the person's fourteenth birthday;

(3) if the [Administrator] *Secretary* finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless paragraph (4) applies) such period shall end 8 years after, whichever date last occurs: (A) the date on which the [Administrator] *Secretary* first finds that the parent from whom eligiblity is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;

* * * * * * *

(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this title may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

(A) The date on which the [Administrator] *Secretary* first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.

(C) The date on which the [Administrator] *Secretary* determines that the spouse from whom eligibility is derived died of a service-connected disability.

(2) Notwithstanding the provision of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct, such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the [Administrator] *Secretary* determines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the [Administrator] *Secretary* shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in clause (B) or (D) of section 1701(a)(1) of this title) may, subject to the approval of the [Administrator] *Secretary* be permitted to elect a date referred to in subparagraph (B) of this paragraph to commence receiving educational assistance benefits under this chapter. The date so elected shall be the beginning date of the delimiting period applicable to such person under this section.

* * * * * * *

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to such person under such subsection if (1) such person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under subsection, (2) such person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to such person under such subsection, and (3) the [Administrator] *Secretary* finds that the suspension was due to conditions beyond the

control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to such person under subsection (a) of this section plus a period of time equal to the period such person was required to suspend the pursuit of such person's program, or beyond such person's thirty-first birthday, whichever is earlier.

* * * * * * *

§ 1713. Application

The parent or guardian of a person or the eligible person if such person has attained legal majority for whom educational assistance is sought under this chapter shall submit an application to the [Administrator] *Secretary* which shall be in such form and contain such information as the [Administrator] *Secretary* shall prescribe. If the [Administrator] *Secretary* finds that the person on whose behalf the application is submitted is an eligible person, the [Administrator] *Secretary* shall approve the application provisionally. The Secretary shall notify the parent or guardian or eligible person (if the person has attained legal majority) of the provisional approval or of the disapproval of the application.

* * * * * * *

SUBCHAPTER III—PROGRAM OF EDUCATION

§ 1720. Educational and vocational counseling

The [Administrator] *Secretary* may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.

§ 1721. Approval of application

The [Administrator] *Secretary* shall approve an application if the [Administrator] *Secretary* finds that—

* * * * * * *

§ 1723. Disapproval of enrollment in certain courses

(a) The [Administrator] *Secretary* shall not approve the enrollment of an eligible person in—

(1) * * *

* * * * * * *

(3) any type of course which the [Administrator] *Secretary* finds to be avocational or recreational in character (or the advertising for which the [Administrator] *Secretary* finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be bona fide use in the pursuit of the person's present or contemplated business or occupation; or

* * * * * * *

(b) The [Administrator] *Secretary* shall not approve the enrollment of an eligible person in any course of flight training other

than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The [Administrator] *Secretary* shall not approve the enrollment of an eligible person in any course to be pursued by radio or by open circuit television, except that the [Administrator] *Secretary* may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d) The [Administrator] *Secretary* shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of such person's regular secondary school education (except as provided in section 1733 of this title), but this subsection shall not prevent the enrollment of an eligible person in a course not leading to a standard college degree if the [Administrator] *Secretary* finds that such person has ended such person's secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning and the course is approved by the [Administrator] *Secretary*. The [Administrator] *Secretary*, in the [Administrator's] *Secretary's* discretion, may deny of discontinue educational assistance under this chapter in the case of any eligible person in such an institution if the [Administrator] *Secretary* determines that such enrollment is not in the best interest of the eligible person or the Federal Government.

§ 1724. Discontinuance for unsatisfactory progress

The [Administrator] *Secretary* shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the [Administrator] *Secretary* finds that according to the regularly prescribed standards and practices of the educational institution such person is attending, the person's attendance, conduct or progress is unsatisfactory. The [Administrator] *Secretary* may renew the payment of the educational assistance allowance only if the [Administrator] *Secretary* finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to the person's aptitudes, interests, and abilities.]

(1) the eligible person will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such eligible person's reenrollment and certified it to the Department of Veterans Affairs; or

(2) in the case of a proposed change of either educational institution or program of education by the eligible person—

(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

(B) the program proposed to be pursued is suitable to the eligible person's aptitudes, interest, and abilities; and

(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

§ 1731. Educational assistance allowance

(a) The **[**Administrator**]** *Secretary* shall, in accordance with the provisions of chapter 36 of this title, pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

* * * * * * *

§ 1732. Computation of educational assistance allowance

(a) * * *

* * * * * * *

(c)(1) An eligible person who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within forty-four weeks of any period of twelve consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of seven clock hours per week), or

(C) a half-time basis (a minimum of five clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in paragraph (2) of this subsection, if such eligible person is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the **[**Administrator**]** *Secretary*. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the person is enrolled.

* * * * * * *

§ 1736. Specialized vocational training courses

The **[**Administrator**]** *Secreatry* may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if the **[**Administrator**]** *Secretary* finds that such course, either alone or when combined with other courses, constitutes a program

of education which is suitable for that person and is required because of a mental or physical handicap.

SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

* * * * * * *

§ 1741. Entitlement to special restorative training

(a) The [Administrator] *Secretary* at the request of the parent or guardian of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the [Administrator] *Secretary*, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) The total period of educational assistance under this subchapter and other subchapters of this chapter may not exceed the amount of entitlement as established in section 1711 of this title, except that the [Administrator] *Secretary* may extend such period in the case of any person if the [Administrator] *Secretary* finds that additional assistance is necessary to accomplish the purpose of special restorative training as stated in subsection (a) of this section.

* * * * * * *

§ 1743. Special administrative provisions

(a) In carrying out the [Administrator's] *Secretary's* responsibilities under this chapter the [Administrator] *Secretary* may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the [Administrator] *Secretary* finds that a customary tuition charge is not applicable, the [Administrator] *Secretary* may agree on the fair and reasonable amounts which may be charged the parent or guardian for the training provided to an eligible person.

(b) The [Administrator] *Secretary* shall make such rules and regulations as the [Administrator] *Secretary* may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 1761. Authority and duties of [Administrator] *Secretary*

(a) The [Administrator] *Secretary* may provide the educational and vocational counseling authorized under section 1720 of this title, and may provide additional counseling if the [Administrator] *Secretary* deems it to be necessary to accomplish the purposes of this chapter.

(b) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any

officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the [Administrator] *Secretary*.

* * * * * * *

§ 1763. Notification of eligibility

The [Administrator] *Secretary* shall notify the parent or guardian of each eligible person defined in section 1701(a)(1)(A) of this title of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains such person's thirteenth birthday or as soon thereafter as feasible.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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SUBCHAPTER I—STATE APPROVING AGENCIES

* * * * * * *

§ 1771. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the "State approving agency" for such State for the purposes of this chapter and chapters 34 and 35 of this title.

(b)(1) If any State fails or declines to create or designate a State approving agency, or fails to enter into an agreement under section 1774(a), the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the [Administrator] *Secretary*.

(2) In the case of courses subject to approval by the [Administrator] *Secretary* under section 1772 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the [Administrator] *Secretary*.

§ 1772. Approval of courses

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 of this title while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 of this title by the State approving agency for the State where such educational institution is located, or by the [Administrator] *Secretary,* or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 1736 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the [Administrator]

Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the [Administrator] *Secretary* as it and the [Administrator] *Secretary* may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35 of this title. Each State approving agency shal notify the [Administrator] *Secretary* of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The [Administrator] *Secretary* shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The [Administrator] *Secretary* may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(c) In the case of programs of apprenticeship where—

(1) the standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the "National Apprenticeship Act") (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State, and

(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the [Administrator] *Secretary* shall act as a "State approving agency" as such term is used in section 1787(a)(1) of this title and shall be responsible for the approval of all such programs.

(d) Pursuant to regulations prescribed by the [Administrator] *Secretary* in consultation with the Secretary of Labor, the [Administrator] *Secretary* shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 2003A of this title to promote the development of such programs.

§ 1773. Cooperation

(a) The [Administrator] *Secretary* and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the [Administrator] *Secretary* and each State approving agency under the educational programs established under this chapter and chapters 34 and 35 of this title. To assure that such programs are effectively and efficiently administered, the cooperation of the [Administrator] *Secretary* and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35 of this title.

(b) The [Administrator] *Secretary* will furnish the State agencies with copies of such Veterans' Administration informational

material as may aid them carrying out chapters 34 and 35 of this title.

§ 1774. Reimbursement of expenses

(a)(1) Subject to paragraphs (2) through (4) of this subsection, the [Administrator] *Secretary* is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section in (A) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under this chapter and chapters 30 through 35 of this title and chapters 106 and 107 of title 10, and in the supervision of such educational institutions, and (B) furnishing, at the request of the [Administrator] *Secretary*, any other services in connection with such chapters. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters. The [Administrator] *Secretary* may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters, and has had the prior approval of the [Administrator] *Secretary*.

(2)(A) The [Administrator] *Secretary* shall, effective at the beginning of fiscal year 1988, make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section and for the allowance for administrative expenses described in subsection (b).

(B) The [Administrator] *Secretary* shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A) of this subsection.

(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b).

(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the [Administrator] *Secretary* on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the [Administrator] *Secretary*.

(B) The [Administrator] *Secretary* shall transmit a report to the Congress on a quarterly basis which summarizes—

(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) of this paragraph with respect to the quarter for which the report is made; and

(ii) the amounts of the payments made by the [Administrator] *Secretary* for such quarter with respect to such certifications and with respect to administrative expenses.

(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the [Administrator] *Secretary* shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

* * * * * * *

(c) Each State and local agency with which the [Administrator] *Secretary* contracts or enters into an agreement under subsection (a) of this section shall report to the [Administrator] *Secretary* on September 30, 1978, and periodically, but not less often than annually, thereafter, as determined by the [Administrator] *Secretary,* on the activities in the preceding twelve months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the [Administrator] *Secretary* shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 of this title and in supervising such institutions.

§ 1774A. Evaluations of agency performance; qualifications and performance of agency personnel

(a) The [Administrator] *Secretary* shall—

(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the [Administrator] *Secretary* in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

* * * * * * *

(b)(1) Each State approving agency carrying out a contract or agreement with the [Administrator] *Secretary* under section 1774(a) after the 18-month period beginning on the date of the enactment of this section shall—

(A) * * *

* * * * * * *

(3) The [Administrator] *Secretary* shall provide assistance in developing such standards to a State approving agency that requests it.

§ 1775. Approval of accredited courses

(a) * * *

* * * * * * *

(b) As a condition to approval under this section, the State approving agency must find that adequate records are kept by the

educational institution to show the progress of each eligible person or veteran and must include as a minimum (except for attendance) the requirements set forth in section 1776(c)(7) of this title. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the eligible person or veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person or veteran and the [Administrator] *Secretary* so notified.

§ 1776. Approval of nonaccredited courses

(a) * * *

* * * * * * *

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) * * *

* * * * * * *

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person and the [Administrator] *Secretary* so notified .

* * * * * * *

(d) The [Administrator] *Secretary* may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) * * *

* * * * * * *

if the [Administrator] *Secretary* determines, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

§ 1777. Approval of training on the job

(a) * * *

* * * * * * *

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) * * *

* * * * * * *

(8) A signed copy of the training agreement for each eligible veteran or person, including the training program and wage scale as approved by the State approving agency, is provided to

the veterans or person and to the [Administrator] *Secretary* and the State approving agency by the employer.

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§1778. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the [Administrator] *Secretary*. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) * * *

* * * * * * *

§1779. Disapproval of courses

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) Each State approving agency shall notify the [Administrator] *Secretary* of each course which it has disapproved under this section. The [Administrator] *Secretary* shall notify the State approving agency of the [Administrator's] *Secretary's* disapproval of any educational institution under chapter 31 of this title.

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1508, 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person [enrolled in a course which leads to a standard college degreee, or a course that meets the requirements of section 1788(a)(7) of this title,] for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the [Administrator] *Secretary* pursuant to subsection (g) of this section, and with the requirements of this

chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

[(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding courses that meet the requirements of section 1788(a)(7) of this title and programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;]

[(3)] *(2)* to any eligible veteran or person for auditing a course;

[(4)] *(3)* to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the [Administrator] *Secretary* finds there are mitigating circumstances, except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof; or

[(5)] *(4)* to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of ths title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the [Administrator] *Secretary* by the educational institution.

Notwithstanding the foregoing, the [Administrator] *Secretary* may, subject to such regulations as the [Administrator] *Secretary* shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) [or (2)] of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation[, and such periods shall not be counted as absences for the purposes of clause (2) of this subsection];

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution

for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days[, but such periods shall be counted as absences for the purposes of clause (2) of this subsection]; or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the inverval between such periods does not exceed 1 full calendar month[, but such periods shall be counted as absences for the purposes of clause (2) of this subsection].

Correspondence Training Certifications

(b) No educational assistance allowance shall be paid to an eligible veteran or spouse or surviving spouse enrolled in and pursuing a program of education exclusively by correspondence until the [Administrator] *Secretary* shall have received—

(1) * * *

* * * * * * *

Apprenticeship and Other On-Job Training

(c) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the [Administrator] *Secretary* shall have received—

(1) * * *

* * * * * * *

Advance Payment of Initial Educational Assistance or Subsistence Allowance

(d)(1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the [Administrator] *Secretary* shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a person on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a

half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (4)(B) and (C) and (5) of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benfits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

(3) For purposes of the [Administrator's] *Secretary's* determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

* * * * * * *

(5) Upon delivery of the advance payment pursuant to paragraph (4) of this subsection, the institution shall submit to the [Administrator] *Secretary* a certification of such delviery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the [Administrator] *Secretary* forthwith.

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Determination of Enrollment, Pursuit, and Attendance

(g) The [Administrator] *Secretary* may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the [Administrator] *Secretary* may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the [Administrator] *Secretary* is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

* * * * * * *

§ 1783. Conflicting interests

(a) * * *

(b) If the [Administrator] *Secretary* finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title, the Administrator shall discontinue making payments under section 1774 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such payments shall not be resumed while such person is an officer or employee of the State approving agency, or State department of veterans' affairs or State department of education.

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(d) The [Administrator] *Secretary* may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration or of a State approving agency, if the [Administrator] *Secretary* finds that no detriment will result to the United States or to eligible persons or veterans by reasons of such interest or connection of such officer or employee.

§ 1784. Reports by veterans, eligible persons, and institutions; reporting fee

(a)(1) Except as provided in paragraph (2) of this subsection, the veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter *31,* 34, 35, or 36 of this title shall, without delay, report to the [Administrator] *Secretary,* in the form prescribed by the [Administrator] *Secretary,* such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the [Administrator] *Secretary* may approve a delay by the educational institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester if the educational institution requests the delay and the [Administrator] *Secretary* determines that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of such program.

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(3)(A) * * *

(B) Subparagraph (A) of this paragraph shall not apply with respect to any term, quarter, or semester for which the veteran or eligible person is enrolled on a less than half-time basis and shall not be construed in restricting the [Administrator] *Secretary* from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

(b) The [Administrator] *Secretary,* prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meet all of the applicable requirements of chapters *31,* 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the [Administrator] *Secretary.*

(c) The [Administrator] *Secretary* may pay to any eduational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter [34] *31, 34,* or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the [Administrator] *Secretary* by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter [34] *31, 34,* or 35 of this title, or $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(4) of this title, on October 31 of that year; except that the [Administrator] *Secretary* may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 percent from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution of joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the [Administrator] *Secretary* against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

§ 1785. Overpayments to eligible persons or veterans

(a) Whenever the [Administrator] *Secretary* finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person to the United States.

(b) Whenever the [Administrator] *Secretary* finds that an overpayment has been made to a veteran or eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) the willful or negligent false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

* * * * * * *

§ 1786. Correspondence courses

(a) * * *

(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or spouse or surviving spouse and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the [Administrator] *Secretary* to the veteran or spouse or surviving spouse. A copy of the enrollment agreement shall be furnished to each such veteran or spouse or surviving spouse at the time such veteran or spouse or surviving spouse signs such agreement. No such agreement shall be effective unless such veteran or spouse or surviving spouse shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the [Administrator] *Secretary* a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or spouse or surviving spouse at any time notifies the institution of such veteran's or spouse's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

* * * * * * *

§ 1788. Measurement of Courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) * * *

* * * * * * *

(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct and education-

al deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the [Administrator] *Secretary,* that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent therof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

* * * * * * *

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours *(or three 50-minute periods)* of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

(b) The [Administrator] *Secretary* shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 34 or 35 of this title.

(c) For the purposes of subsection (a) of this section, the term "in residence on a standard quarter- or semester-hour basis" means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term "standard class session" means one hour (or fifty-minute period) of academic instruction, two hours (or two 50-

minute periods) of laboratory instruction, or three hours *(or three 50-minute periods)* of workshop training.

* * * * * * *

[(e) For the purpose of determining whether a course—

[(1) which is offered by an institution of higher learning, and

[(2) for which such institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree

will, during the semester (or quarter or other applicable portion of the academic year) when such unit course or subject is being pursued, be considered full time under clause (1) or (2) of subsection (a) of this section, each of the numbers of hours specified in such clause shall be deemed to be reduced, during such semester (or other portion of the academic year), by the percentage described in the following sentence and rounded as the [Administrator] *Secretary* may prescribe. Such percentage is the percentage that the number of semester hours (or the equivalent thereof) represented by such unit course or subject is of the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a fulltime institutional undergraduate course at such institution.]

(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

(A) which is offered by an institution of higher learning, and

(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.

§ 1789. Period of operation for approval

(a) The [Administrator] *Secretary* shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less then two years.

(b) Subsection (a) shall not apply to—

(1) * * *

* * * * * * *

The [Administrator] *Secretary* may waive the requirements of clause (6) of this subsection, in whole or in part, if the [Administrator] *Secretary* determines, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(c) Notwithstanding the provisions of subsection (b) (1), (2), (3), or (4) of this section, the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

(1) a public or other tax-supported institution where the branch of extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

(2) a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution.

The [Administrator] *Secretary* may waive the requirements of this subsection, in whole or in part, if the [Administrator] *Secretary* determines, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) If the [Administrator] *Secretary* finds that an educational institution has—

(1) charged or received from an eligible veterans or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly cirmcumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

(2) instituted, after October 24, 1972, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the [Administrator] *Secretary* finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance [and prepayment] allowances under such section,

the [Administrator] *Secretary* may disapprove such educational institution for the enrollment of any eligible veterans or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35 or this title.

Discontinuance of Allowances

(b)(1) The [Administrator] *Secretary* may discontinue the educational assistance allowance of any eligible veteran or eligible person if the [Administrator] *Secretary* finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34

or 35 of this title, or if the [Administrator] *Secretary* finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35 of this title or fails to meet any of the requirements of such chapters.

(2) Except as provided in paragraph (3) of this subsection, any action by the [Administrator] *Secretary* under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the [Administrator] *Secretary* so discontinues any such assistance, the [Administrator] *Secretary* shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

(3)(A) The [Administrator] *Secretary* may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the [Administrator] *Secretary* has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter *30,* 32, 34, or 35 of this title.

(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

(I) the [Administrator] *Secretary* provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the [Administrator] *Secretary* determines is reasonable and appropriate) take corrective action; and

(III) the [Administrator,] *Secretary,* not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the [Administrator's] *Secretary's* intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer periods as the [Administrator] *Secretary* has determined is reasonable and appropriate), and of the date on which the [Administrator] *Secretary* intends to take action under such subparagraph.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans

or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the [Administrator] *Secretary* determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the [Administrator] *Secretary* finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the [Administrator] *Secretary* shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

§ 1791. Change of program

(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran and eligible person may make not more than one change of program of education, but an eligible veteran or eligible person whose program has been interrupted or discontinued due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application shall not be entitled to any such change.

(b) The [Administrator] *Secretary* may approve one additional change (or an initial change in the case of a veteran or person not eligible to make a change under subsection (a)) in the program if the [Administrator] *Secretary* finds that—

(1) * * *

* * * * * * *

(c) The [Administrator] *Secretary* may also approve additional changes in program if the [Administrator] *Secretary* finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

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§ 1792. Advisory committee

(a) There shall be a Veterans' Advisory Committee on education formed by the [Administrator] *Secretary* which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 30, 32, 34, or 35 of this title. The committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Post-secondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

(b) The [Administrator] *Secretary* shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 30, 32, 34, and 35 of this title. The committee may make such reports and recommendations as it considers desirable to the [Administrator] *Secretary* and the Congress.

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§ 1793. Compliance surveys

(a) Except as provided in subsection (b) of this section, the [Administrator] *Secretary* shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The [Administrator] *Secretary* shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

(b) The [Administrator] *Secretary* may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the [Administrator] *Secretary* determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.

§ 1794. Use of other Federal agencies

In carrying out the [Administrator's] *Secretary's* functions under this chapter or chapter 34 or 35 of this title, the [Administrator] *Secretary* may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

§ 1795. Limitation on period of assistance under two or more programs

(a) * * *

(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in subsection (a) of this section in excess of 48 months (or the part-time equivalent thereof) unless the [Administrator] *Secretary* determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 1501(5) of this title) in the individual case.

§ 1796. Limitation on certain advertising, sales, and enrollment practices

(a) The [Administrator] *Secretary* shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

(b) To ensure compliance with this section, any institution offering courses approved for the enrollment of eligible persons or veterans shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period. Such record shall be available for inspection by the State approving agency or the [Administrator] *Secretary*. Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel agents, or representatives of such institution.

(c) The [Administrator] *Secretary* shall, pursuant to section 1794 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the [Administrator's] *Secretary's* determinations under subsection (a) of this section. Such agreement shall provide that cases arising under subsection(a) of this section or any similar matters with respect to any of the requirements of this chapter or chapters 34 and 35 of this title shall be referred to the Federal Trade Commission which in its discretion will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the [Administrator] *Secretary* who shall take appropriate action in such cases within ninety days after such referral.

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SUBCHAPTER III—EDUCATION LOANS

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans.

(a) * * *

(b)(1) Subject to paragraph (3) of this subsection, the amount of the loan to which an eligible veteran shall be entitled under this subchapter for any academic year shall be equal to the amount needed by such veteran to pursue a program of education at the institution at which the veteran is enrolled, as determined under paragraph (2) of this subsection.

(2)(A) * * *

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(C) The term "actual cost of attendance" means, subject to such regulations as the [Administrator] *Secretary* may provide, the actual per-student charges for tuition, fees, room and board (or ex-

penses related to reasonable commuting), books, and an allowance for such other expenses as the [Administrator] *Secretary* determines by regulation to be reasonably related to attendance at the institution at which the veteran is enrolled.

* * * * * * *

(c) an eligible veteran shall be entitled to a loan under this subchapter if such veteran—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the [Administrator] *Secretary* may waive the requirements of subclause (B) of this clause, in whole or in part if the [Administrator] *Secretary* determines, pursuant to regulations which the [Administrator] *Secretary* shall prescribe, it to be in the interest of the eligible veteran and the Federal Government;

(2) enters into an agreement with the [Administrator] *Secretary* meeting the requirements of subsection (d) of this section; and

(3) satisfies any criteria established under subsection (g) of this section

* * * * * * *

(d) Any agreement between the [Administrator] *Secretary* and a veteran under this subchapter—

(1) shall include a note or other written obligation which provides for repayment to the [Administrator] *Secretary* of the principal amount of, and payment of interest on, the loan in installments (A) over a period beginning nine months after the date on which the borrower ceases to be at least a half-time student and ending ten years and nine months after such date, or (B) over such shorter period as the [Administrator] *Secretary* may have prescribed under subsection (g) of this section;

(2) shall include provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower;

(3) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the [Administrator] *Secretary,* at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Secretary of Education under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the [Administrator] *Secretary* exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and

(4) shall provide that the loan shall be made without security and without endorsement.

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the [Administrator] *Secretary* determines that a default has occurred on any loan made under this subchapter,

the [Administrator] *Secretary* shall declare an overpayment, and such overpayment shall be recovered from the veteran concerned in the same manner as any other debt due the United States.

(2) If a veteran who has received a loan under this section dies or becomes permanently and totally disabled, then the [Administrator] *Secretary* shall discharge the veteran's liability on such loan by repaying the amount owed on such loan.

(3) The [Administrator] *Secretary* shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include—

(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; and

(B) data regarding the default experience and default rate with respect to loans made under this section.

(f) Payment of a loan made under this section shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the [Administrator] *Secretary* a certification, on such form as the [Administrator] *Secretary* shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(4) of this title for purposes of section 1784(b) of this title.

(g)(1) The [Administrator] *Secretary* shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this section.

(2)(A) To ensure that loans are made under this section on the basis of financial need directly related to the costs of education, the [Administrator] *Secretary* may, by regulation, establish (i) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by sebsection (c) and (d) of this section, in order to limit eligibility for such loans to eligible veterans attending eduational institutions with relatively high rates of tuition and frees, and (ii) criteria under which the [Administrator] *Secretary* may prescribe a repayment period for certain types of loans made under this section that is shorter than the repayment period otherwise applicable under subsection (d)(1)(A) of this section. Criteria established by the [Administrator] *Secretary* under clause (i) of the preceding sentence may include a minimum amount of tuition and fees that an eligible veteran may pay in order to be eligible for such a loan (exept that any such criterion shall not apply with respect to a loan for which the veteran is eligible as a result of an extension of the period of eligibilty of such veteran for loans under this section provided for by section 1662(a)(2) of this title).

(B) In prescribing regulations under subparagraph (A) of this paragraph, the [Administrator] *Secretary* shall take into consider-

ation information developed in the course of the review required by paragraph (1) of this subsection.

(C) Regulations may be prescribed under subparagraph (A) of this paragraph only after opportunity has been afforded for public comment thereon.

§ 1799. Revolving fund; insurance

(a) There is hereby established in the Treasury of the United States a revolving fund to be known as the "Veterans' Administration Education Loan Fund" (hereinafter in this section referred to as the "Fund").

(b) The Fund shall be available to the [Administrator] *Secretary* without fiscal year limitation, for the making of loans under this subchapter.

* * * * * * *

(d) The [Administrator] *Secretary* shall determine annually whether there has developed in the Fund a surplus which, in the [Administrator's] *Secretary's* judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall be deemed to have been appropriated for readjustment benefits

(e) A fee shall be collected from each veteran or person obtaining a loan made under this subchapter for the purpose of insuring against defaults on loans made under this subchapter; and no loan shall be made under this subchapter until the fee payable with respect to such loan has been collected and remitted to the [Administrator] *Secretary*. The amount of the fee shall be established from time to time by the [Administrator] *Secretary* but shall in no event exceed 3 percent of the total loan amount. The amount of the fee may be included in the loan to the veteran or person and paid from the proceeds thereof.

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